

TAM:MEM:mel

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

EMANUEL THOMAS NEWMAN,	:	
Plaintiff	:	No. 1:CV-01-0677
	:	(Conner, J.)
v.	:	
	:	
RONALD L. JURY, Lieutenant,	:	
SIS, et al.,	:	Filed Electronically
Defendants	:	

BRIEF IN OPPOSITION TO PLAINTIFF'S
MOTION TO DECLARE DEFENDANT'S HOSTILE WITNESS

This is a Bivens complaint against Bureau of Prisons' employees claiming a deliberate indifference to Newman's safety and welfare. One of the defendants, Ronald L. Jury, was dismissed with prejudice, pursuant to Fed. R. Civ. P. 41(a), on March 19, 2002. Newman alleges that the remaining defendants, Lieutenant Louis Caprio and Lieutenant James White, allowed him to be assaulted on May 14, 1999, by another inmate, Kevin Tinsley, despite the fact that he sought defendants' protection prior to the day of the assault. The case is presently set for trial. Jury selection is scheduled to commence on May 24, 2004.

Presently before the Court is Newman's motion to declare all of defendants' witnesses as "hostile" as "any witnesses called by the defendant's [sic] to testify . . . are either employees of the U.S.P. Allenwood, or inmate informants working for employees

of the U.S.P. Allenwood." Doc. 111, p. 1. He therefore requests permission to use leading questions as set forth in Federal Rule of Evidence 611(c). Defendants submit that Newman's motion is premature, as the Court must apply Rule 611(c) in its discretion based on the evidence as presented at trial.

Respectfully submitted,

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United States Attorney

s/Mark E. Morrison
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Date: April 12, 2004

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EMANUEL THOMAS NEWMAN,	:	
Plaintiff	:	No. 1:CV-01-0677
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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

That on April 12, 2004, she served a copy of the attached

BRIEF IN OPPOSITION TO PLAINTIFF'S
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by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Williamsport, Pennsylvania.

Addressee:

Emanuel Thomas Newman
Reg. No. 13418-039
Federal Correctional Institution
P.O. Box 1000
Oxford, WI 53952-1000

s/ Michele E. Lincalis
MICHELE E. LINCALIS
Paralegal Specialist